

## INSTRUCTIONS FOR FILING A PETITION FOR GUARDIANSHIP OF A MINOR

*Please read these entire instructions carefully*

**COMPLETION OF FORMS:** All required forms must be typed or legibly printed in ink. All forms must be accurately and fully completed. Illegible or incomplete forms will not be accepted for filing.

**INDIAN CHILD:** There are completely different forms and requirements if the minor is an Indian Child as defined by the Indian Child Welfare Act, 25 USC 1901 *et seq.* Do not rely in these instructions if the minor is an Indian Child.

**LEGAL ADVICE:** By law, court personnel are prohibited from giving legal advice. If you have questions regarding this procedure, or are unable to properly complete the forms, you should seek assistance from a qualified attorney or the Legal Assistance Center.

**COSTS:** The costs in connection with filing a Petition for Appointment of Guardian for a Minor are:

- **Filing Fee:** The Filing Fee for each Petition for Appointment of a Guardian for a Minor is **\$175**, payable via cash, check or money order payable to the Kent County Probate Court. If the petitioner is indigent and unable to afford this fee, he or she must first file an **Affidavit for Waiver/Suspension of Fees**. The clerk's office will provide a copy of this form free of charge. You will not be permitted to file your Petition for Appointment of Guardian until either your request for Waiver of Fees is granted or you pay the \$175 Filing Fee.
- **Certified Copy:** If you are appointed as guardian for a minor, the fee for obtaining a **Certified Copy** of your Letters of Guardianship is **\$12**. This fee may not be waived.
- **Publication Fee:** If the address of an Interested Person is not known, you will be required to publish the required Notice and must pay the Grand Rapids Legal News for the publication fee, which is approximately **\$80**. This fee may not be waived.

**INVESTIGATION BY CHILD PROTECTIVE SERVICES:** Effective December 6, 2013, upon the filing of any Petition for Appointment of a Guardian for a Minor, the court will appoint the Department of Human Services to investigate the proposed guardianship. A representative of CPS will visit the home of the proposed guardian and make such other investigation as is appropriate.

**HEARINGS:** The hearing on a Petition for Appointment of a Guardian for a Minor will generally take place at least 35 days after filing of the Petition. This is to allow time for CPS to conduct its investigation and prepare its report.

**TEMPORARY GUARDIANSHIP:** If there is a medical or other emergency or the minor is in imminent danger so that earlier appointment of a temporary guardian is necessary, the petitioner may request appointment of a Temporary Guardian by competing paragraph 7 of the Petition. In this case there will be two hearings, and when you file your Petition you will need to provide two completed copies of the:

- Notice of Hearing
- Order Regarding Appointment of Guardian
- Acceptance of Appointment; and
- Letters of Guardianship

One set will be for the temporary hearing and the other for the regular hearing.

Note also that if the minor is 14 years of age or older, the minor must be personally served with a copy of the Petition and Notice of the Temporary Hearing prior to the temporary hearing, and the minor has a right to attend the hearing.

**INTERESTED PERSONS:** The Interested Persons are defined by statute and court rule and must be served with a copy of the Petition for Appointment of Guardian and Notice of Hearing. It is the responsibility of the Petitioner, not the Court, to serve the Interested Persons. In the case of a guardianship for a minor, the Interested Persons include:

- The minor, if 14 years of age or older
- Each person who has had the principal care and custody of the minor during the 63 days preceding the filing of the Petition for Appointment of Guardian
- The parents of the minor or, if neither of them is living, all living grandparents and the adult presumptive heirs of the minor (usually siblings)
- The nominated guardian

**ITEMS REQUIRED IN ADDITION TO REQUIRED FORMS:** In addition to the required forms listed below, you will need to provide to the Court at the time you file your Petition, each of the following:

- A copy of the minor's birth certificate (if available)
- A copy of the latest Court Order affecting the child (i.e., Judgment of Divorce, Judgment of Paternity, Child Support Order or Custody Order. These can be obtained from the Circuit Court in the county in which the Order was entered.
- Copy of driver's license or photo ID of proposed guardian.

**REQUIRED FORMS:** The following forms are required to be completed and filed at the time you file your Petition for Appointment of Guardian of Minor. On each form on the line next to "In the matter of" insert the name of the minor.

- **PC651 – Petition for Appointment of Guardian of a Minor** - Detailed instructions are provided below.
- **PC670 – Social History for Minor Guardianships** - Complete fully, with a separate first page for each proposed co-guardian.
- **PC562 – Notice of Hearing** - The court will insert the date and time of hearing. The remainder of the form should be completed by the petitioner.
- **PC635F – Order Appointing Person to Review/Investigate Guardianship** - Insert the name of the minor in the first line.
- **PC653R – Order Regarding Appointment of Guardian** - Complete this form as you would like the court to enter it. The grounds for the guardianship in paragraph 4 should be the same as the grounds you alleged in paragraph 6 of your Petition. Be sure to insert the name(s), address(es) and phone number(s) of the proposed guardian(s) in paragraph 10.
- **PC571 – Acceptance of Appointment** - Complete and sign one form for each proposed co-guardian.
- **PC633R – Letters of Guardianship** - Insert the name(s), address(es), and telephone number(s) of all proposed guardian(s) in the boxes, printing clearly. All guardians are shown on one form (there are not separate Letters for each guardian). The court will complete the remainder of the form.

- **PC564 – Proof of Service** – You, the petitioner, must serve the Interested Persons with copies of the Petition for Appointment of Guardian and the Notice of Hearing. The court will not do this for you. You may serve by first class mail or personally (do not use certified or registered mail). If service is by first class mail, the documents must be mailed at least 14 days prior to the hearing. If service is by personally handing the documents to the individual, the documents must be served personally at least 7 days prior to the hearing. The Proof of Service must be completed by the person who performed the mailing or personal service. List the documents served in section 1, and complete section 2 for persons served by mail and section 3 for persons served personally. Sign and date the form and file it with the Court at least 5 days prior to the hearing.

**ADDITIONAL REQUIRED FORMS IF THE ADDRESS OF AN INTERESTED PERSON IS UNKNOWN:**

- **PC617 – Declaration of Intent to Give Notice by Publication** - Insert “Petition for Appointment of Guardian and Notice of Hearing” as the documents, and insert the name and last known address of the person whose current whereabouts are unknown. You have a duty to use diligence to attempt to locate a current address of an Interested Person. This includes doing internet searches. Describe in detail what you have done to find the current address, and date and sign the form.
- **PC563 – Publication of Notice of Hearing** - Insert name(s) of person(s) whose whereabouts are unknown, and fill in date, time and location of hearing. The purpose of the hearing is: “For the appointment of [*name of proposed guardian(s)*] as guardian(s) for the minor.” Date and complete name and address section. The form will need to be published in the Grand Rapids Legal News at least 14 days prior to the hearing. The Legal News publishes on Wednesdays. The petitioner is responsible for paying the cost of publication, which is approximately **\$80**. This must be paid a week prior to the hearing to allow time for the Legal News to transmit the Affidavit of Publication, which it will not do until it is paid.

**ADDITIONAL REQUIRED FORM IF A PARENT IS INCARCERATED:** If a parent is incarcerated in the custody of the Michigan Department of Corrections (not a county jail), the following additional form is required. The address of a prisoner can be located by doing an Offender Search at [www.michigan.gov/corrections](http://www.michigan.gov/corrections).

- Motion to Permit Incarcerated Party to Participate In Telephonic Proceeding

**FILING AND COPIES OF FORMS:** All of the required documents and forms should be filed with the court at the same time. Before filing, make yourself a copy of the Petition for Appointment of Guardian and Notice of Hearing (as well as any other forms of which you want copies). The court will insert the date and time of the hearing on your copy of the Notice of Hearing. Then you can make as many photocopies of your Petition and Notice of Hearing as you will need in order to serve the Interested Persons. The court charges \$2 per page for copies, so you should make your own.

**DETAILED INSTRUCTIONS FOR COMPLETION OF PETITION FOR APPOINTMENT OF GUARDIAN FOR MINOR:**

- In section 1 insert your name and your relationship to the minor (i.e., grandmother, aunt, etc.)
- In section 2, insert the minor’s date of birth, gender, home address, and current address if different from home address.
- In section 3 indicate whether or not the minor is an **Indian Child**. An Indian Child is an unmarried person under age 18 who is either a member of an Indian tribe or eligible for membership in an Indian tribe as determined by that Indian tribe. If you check either the box that indicates that the minor is an Indian Child or the box indicating that it is unknown whether the minor is an Indian Child, the Court will not accept your filing as the forms for guardianship of an

Indian Child are completely different. So you need to determine whether the child is an Indian Child before you file anything.

- Complete section 4 regarding the Interested Persons after reading information on Interested Persons in these instructions. Note that an Interested Person is not simply someone who cares about the minor; an Interested Person is a person who has a **legal** interest in the proceeding. No one with a legal interest can be excluded. If you are unable to obtain an address for an Interested Person, you are required to publish. See the information on Additional Required Forms in these instructions if the address of an Interested Person is unknown. The petitioner must pay the cost of publication.
- If the parents were divorced, or there was a paternity action or a support or custody case, or the child was involved in child protective or juvenile proceedings, you must list the court that has/had prior jurisdiction in section 5. Obtain the case number from the previous court and include it.
- In section 6 you must select one or more **grounds** for the proposed guardian to be appointed as guardian for the minor. Note that the grounds listed in section 6 are the only grounds upon which a probate court may appoint a guardian for a minor. The proposed guardian must satisfy all specifics of the ground for guardianship selected. The court does not have the authority to appoint someone as guardian for a minor simply because the child would be better off with the proposed guardian. Likewise the court does not have authority to appoint a guardian for a minor because the parent is neglectful or abusive. If that is the case please contact Child Protective Services at (855) 444-3911.
- Complete section 7 if an emergency exists and a temporary guardian is requested (but please first review the information on Temporary Guardianship in these instructions).
- In section 8 complete the name(s), address(es) and phone number(s) of the proposed guardian(s).
- Date and sign the petition.
- If the minor is 14 years of age or older, and wishes to nominate a guardian, the minor may complete section 10, and date and sign it.

**ON THE DAY OF THE HEARINGS:** Please report to the Probate Court Clerk's office (Suite 2500 of the Courthouse) at least 10 minutes prior to your scheduled hearing, to be advised of the courtroom where your hearing will be held. Effective January 1, 2017, all new minor guardianship cases and most existing minor guardianship cases are assigned to **Judge Terence J. Ackert** and hearings conducted in **Courtroom 10B**. However, there may be a few cases with pending issues on 1/1/17 that will remain with **Judge David M. Murkowski (Courtroom 9C)** until resolution. On some days a number of cases are scheduled for the same block of time, and on other days a cases is scheduled for its own block of time. It is very important that you be in the correct Courtroom at the date and time indicated on your Notice of Hearing.

**ADJOURNMENTS:** A hearing on a minor guardianship may be adjourned for any number of reasons. To avoid wasting a trip to the Courthouse you can check to make sure your hearing is still scheduled by going to [www.accesskent.com/ProbateHearing/](http://www.accesskent.com/ProbateHearing/). It is wise to do this the evening before your hearing. Simply insert the case number (i.e., 13 123456 GM) and click submit. If the hearing has been adjourned it will say so in the far right column and any new hearing date will be shown below.